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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)

Implementation of the)
Pay Telephone Reclassification and)
Compensation Provisions of the)
Telecommunications Act of 1996)

CC Docket No. 96-128

To: The Commission

**REPLY COMMENTS OF METROCALL, INC. IN
SUPPORT OF PETITIONS FOR RECONSIDERATION**

Metrocall, Inc., through its undersigned counsel, and pursuant to Section 1.429(e) of the FCC's Rules, hereby respectfully submits these Reply Comments in support of requests for reconsideration of certain provisions of the Second Report and Order ("Second Order") in the above-captioned payphone compensation rulemaking proceeding.

Further Evidence of Unjust/Unreasonable Payphone Billing Practices

In Metrocall's January 7 Comments in this proceeding, it explained that the FCC's payphone compensation rules have led to a number of unjust and unreasonable interexchange carrier ("IXC") billing practices. (See Metrocall Comments at pp. 12-13). For instance, some IXCs have already raised their long distance rates to "cover" PSP charges; but, the PSPs have not yet billed them for these services. Also, some IXCs have announced their intention to "pass through" payphone charges to paging carriers at a "marked up" rate of 30 cents per call.

Attached hereto as Reply Exhibit One is additional evidence of these unjust and unreasonable practices, and further evidence that the FCC's rules have sown confusion throughout the entire telecommunications industry. The attached notice from MCI

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Communications states that it has unilaterally added a 30 cent per-call "Payphone Use Charge" to all its local tariffs, and that it intends to assess those charges regardless of any existing agreements to the contrary.

At the same time, MCI states that: "MCI is not legally responsible for remitting payment to the PSPs pursuant to the FCC rule, and such carrier customers are advised to consult with their own advisers as to their own responsibilities." Reply Exhibit at p. 1. If MCI does not intend to remit these 30 cent charges to payphone service providers (or, at least, disclaims legal responsibility for making those payments to PSPs), it is by no means apparent why paging carriers should be paying these charges, or why they should be assessed these charges by an IXC in the first place.

MCI also cryptically states that it "does not have visibility into the successful completion of [presumably payphone originated] calls since they are terminated via our Carrier's facilities." *Id.* Assuming that statement is true (and it is difficult to believe that an IXC could stay in business for long if it didn't know whether a call placed on its network was completed), Metrocall wonders why it should be charged 30 cents per payphone call, when its IXC cannot tell whether that call was completed or not.

Finally, MCI has informed paging carriers that payphone "blocking" will not be widely available until the second quarter of 1998, *Id.* at p. 2, which is not what the FCC and the LECs told the U.S. Court of Appeals for the D.C. Circuit. (See Metrocall Comments at p. 9). In the meantime, paging carriers will be responsible for these charges. Even when blocking is available, MCI has stated that it will make "no representation or warranty whatsoever with respect to the Payphone Blocking Service." Reply Exhibit at p. 2.

In sum, at least the second largest IXC in the United States is taking the position that even if a paging carrier asks to block payphone calls, the paging carrier must still pay for those calls (at a marked-up rate), even if the IXC cannot block them due to IXC network limitations. Moreover, when the PSPs come looking for their payments, MCI will tell them to contact the paging carrier, even though MCI has increased its rates to cover PSP charges. It would be difficult to imagine a better example of unjust and unreasonable common carrier practices.

Perhaps the FCC is irrevocably wedded to its "carrier pays" rules, and, as the RBOCs have requested, it will not revisit this issue. See RBOC/GTE/SNET Payphone Coalition Opposition at p. 7 (January 7, 1998). That may be so; but, the FCC has constructed a payphone compensation scheme that is promoting the sort of unjust and unreasonable practices alluded to in MCI's missive. As Metrocall has previously stated, these are not "marketplace" issues, these are regulatory issues, and they will not go away unless and until the FCC explains how every participant in an end-to-end payphone call will be able to fairly comply with this agency's rules.

At least from Metrocall's perspective, as they are currently written, it is essentially impossible to reasonably comply with the FCC's payphone compensation rules. For that reason alone, the FCC ought to be concerned that these rules will once again be subject to a remand order from the U.S. Court of Appeals. Cf. McElroy Electronics, Inc. v. FCC, 990 F.2d 1351, 1358 (D.C. Cir. 1993) ("elementary fairness requires clarity of standards sufficient to apprise an applicant of what is expected") (citations omitted); Puerto Rico Sun Oil Co. v. U.S. E.P.A., 8 F.3d 73, 77-78 (1st Cir. 1993) (agency decision must be rational and "considerations of ... practical effect would, in a rational decision" receive some agency consideration and discussion). The wiser course would be for this agency to heed the many concerns raised in these petitions

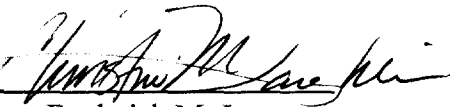
and comments, and reconsider its rules.

CONCLUSION

For all the foregoing reasons, and for the reasons stated in Metrocall's previously filed Comments, Metrocall respectfully requests that the FCC grant the petitions for reconsideration.

Respectfully submitted,

METROCALL, Inc.

By: 
Frederick M. Joyce
Christine McLaughlin
Its attorneys

JOYCE & JACOBS, Attorneys at Law, L.L.P.
1019 19th Street, N.W.
14th Floor, PH #2
Washington, D.C. 20036
(202) 457-0100

Date: January 20, 1998

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November 4, 1997

FCC PAYPHONE USE CHARGE MANDATE

Dear MCI Carrier Customer:

As you may know, a key provision of the Telecommunications Act of 1996 is the Payphone Use Charge (PUC) mandate which stipulates that Payphone Service Providers (PSPs) are to be compensated for all non-coin calls completed from their payphones. This compensation is to be paid by all carriers who transport these calls. The mandate states, however, that carriers may pass along the charges to their customers. The FCC has established, effective immediately and for the next two years, a rate of 28.4 cents as the default per-call compensation rate for subscriber 800 and access code calls made from payphones.

This letter is notice to your company (for all purposes under your agreement(s) with MCI and under MCI's federal tariffs), that MCI has filed tariffs relating to the PUC, effective as of October 13, 1997. Starting on such date (or as otherwise provided in applicable agreements), MCI customers will incur a 30 cent per-call Payphone Use Charge (PUC) for each non-coin call made from a payphone. Due to billing schedules and development delays caused by FCC actions, these charges will be assessed and appear on your MCI invoice no earlier than December 1997, and possibly later.

In an effort to help you understand and prepare, we have described below, and in the attachment to this letter, details of the mandate's impact on each MCI product category.

TOLL FREE DAL

For Toll Free DAL services used by carrier customers, MCI is not legally responsible for remitting payment to the PSPs pursuant to the FCC rule, and such carrier customers are advised to consult with their own advisors as to their own responsibilities. The rule states that a completed call, for purposes of compensation, is a call successfully passed from the originating party to the terminating party. With Toll Free DAL applications, MCI does not have visibility into the successful completion of calls since they are terminated via our Carrier's facilities. The attachment to this letter describes the current status of MCI's ability to pass Infodigit's to Carrier customers using MCI Toll Free DAL service.

SWITCHLESS TRAFFIC

Pursuant to the FCC mandate, MCI is required to remit the PUC on behalf of its Carriers for all of its Switchless Products. CNS Switchless Products covered include: CNS

Inbound, Connection Card, Debit Card and Switchless Operator Services. Details on each product, and Infodigit and other reporting, is described in the attachment.

PAYPHONE BLOCKING

MCI will offer a Payphone Blocking Service to block receipt of payphone originated toll-free calls. A limited Blocking Service will be available November 15, 1997, while complete blocking may not be available until the second quarter of 1998. Due to insufficient time for full development of blocking service, and because blocking is not available in all areas, Carriers shall be responsible for associated Payphone Use Charges on any calls which are not blocked. MCI makes no representation or warranty whatsoever with respect to the Payphone Blocking Service. If you wish to block receipt of toll-free calls from payphones, please contact your account team immediately.

We hope this information is helpful as you prepare for the FCC mandate. Please address any questions or concerns regarding the FCC's Payphone Use Charge to your MCI Account Team.

The information contained in this letter is accurate to the best of our knowledge. However, this information is subject to change as the FCC continues to redefine stated rulings and decisions.

Sincerely,



Anne Barker Jarvis
Director
Carrier Marketing & Support

CERTIFICATE OF SERVICE

I, Rhonda M. Johnson, a legal secretary in the law firm of Joyce & Jacobs, Attorneys at Law, L.L.P., do hereby certify that on this 20th day of January, 1998, copies of the foregoing Reply Comments were sent by first-class U.S. mail, postage prepaid, to the following:

Chairman William E. Kennard*
Federal Communications Commission
1919 M Street, N.W., Room 844
Washington, DC 20554

Commissioner Susan Ness*
Federal Communications Commission
1919 M Street, N.W., Room 832
Washington, DC 20554

Commissioner Michael K. Powell*
Federal Communications Commission
1919 M Street, N.W., Room 844
Washington, DC 20554

Commissioner Gloria Tristani*
Federal Communications Commission
1919 M Street, N.W., Room 826
Washington, DC 20554

Commissioner Harold Furchtgott-Roth*
Federal Communications Commission
1919 M Street, N.W., Room 802
Washington, DC 20554

Christopher J. Wright*
General Counsel
Federal Communications Commission
1919 M Street, N.W.
Room 614
Washington, DC 20554

Bob Spangler*
Chief, Enforcement Division
Common Carrier Bureau
Federal Communications Commission
2025 M Street, N.W., Room 6008
Washington, DC 20554

Greg Lipscomb*
Enforcement Division
Common Carrier Bureau
Federal Communications Commission
2025 M Street, N.W., Room 6120
Washington, DC 20554

Carl W. Northrop
H. Ashton Johnston
Paul, Hastings, Janofsky, & Walker, LLP
1299 Pennsylvania Ave., N.W., 10th Floor
Washington, DC 20004-2400

Glenn B. Manishin
Blumenfeld & Cohen
1615 M Street, NW
Suite 700
Washington, DC 20036-3214

Mark A. Stachiw
Emie F. Stewart
AirTouch Paging
12221 Merit Drive, Suite 800
Dallas, TX 75251

Albert H. Kramer
Robert F. Aldrich
Jacob S. Farber
Dickstein, Shapiro, Morin & Oshinsky, LLP
2101 L Street, N.W.
Washington, DC 20037

Mark C. Rosenblum
AT&T Corp.
295 North Maple Avenue
Room 3244J1
Basking Ridge, NJ 07920

Rachel J. Rothstein
Director, Regulatory & International Affairs
Cable & Wireless, Inc.
8219 Leesburg Pike
Vienna, VA 22182

R. Michael Senkowski
Katherine M. Holden
Stephen J. Rosen
Wiley Rein & Fielding
1776 K Street, NW
Washington, DC 20006

Robert L. Hoggarth
Senior Vice President
Paging and Narrowband
PCIA
500 Montgomery Street
Suite 700
Alexandria, VA 22314-1561

Theodore R. Kingley
Rebecca M. Lough
M. Robert Sutherland
BellSouth Corporation
1155 Peachtree Street, NE
Suite 1700
Atlanta, GA 30309

J. Paul Walters, Jr.
Robert M. Lynch
Durward D. Dupre
Mary W. Marks
Southwestern Bell
One Bell Center, Room 3520
St. Louis, MO 63101

C. Douglas McKeever
Invision Telecom, Inc.
1150 Northmeadow Parkway, Suite 118
Roswell, GA 30076

Alan S. Baker
Ameritech
2000 West Ameritech Center Drive
Hoffman Estates, IL 60196

Danny E. Adams
Kelly, Drye & Warren, LLP
1200 19th Street, N.W., Suite 500
Washington, DC 20036

Mary J. Sisak
Donald J. Elardo
MCI Telecommunications Corp.
1801 Pennsylvania Avenue, N.W.
Washington, DC 20006

Phillip L. Spector
Patrick S. Campbell
Paul, Weiss, Rifkind, Wharton & Garrison
1615 L Street, N.W.
Washington, DC 20036

Judith St. Ledger-Roty
Kelley Drye & Warren LP
1200 19th Street, N.W., Suite 500
Washington, DC 20004

Michael S. Wroblewski
Latham & Watkins
1001 Pennsylvania Avenue, N.W.
Suite 1300
Washington, DC 20004

Michael K. Kellogg
Kellogg, Huber, Hansen, Todd & Evans
1301 K Street, N.W., Suite 1000 West
Washington, D.C. 20005

Leon M. Kestenbaum
Jay C. Keithley
H. Richard Juhnke
Sprint Corporation
1850 M Street, N.W., 11th Floor
Washington, DC 20036

Ian D. Volner
Heather L. McDowell
Venable, Baetjer, Howard & Civiletti, LLP
1201 New York Avenue, NW
Suite 1000
Washington, DC 20005

Alan S. Tilles
Meyer Faller Weisman & Rosenberg, PC
4400 Jenifer St., N.W., Suite 380
Washington, DC 20015

Howard J. Symons
Mintz Levin Cohn Ferris Glovsky &
Popeo, P.C.
701 Pennsylvania Avenue, NW, Suite 900
Washington, DC 20004-2608

David L. Hill
Audrey Rasmussen
O'Connor & Hannan, LLP
1919 Pennsylvania Avenue, NW
Suite 800
Washington, DC 20006

Thomas Gutierrez
J. Justin McClure
Lukas McGowan Nace & Gutierrez,
Chartered
1111 19th Street, NW
Suite 1200
Washington, DC 20036

Andrew J. Phillips
Yakes Bauer Kindt & Phill
P.O. Box 1338
Osh-Kosh, WI 54902

Joel B. Shifman
State of Maine
Public Utilities Commission
18 State House Station
Augusta, ME 04333

Cece L. Wood
Oklahoma Corporation Commission
P.O. Box 52000-2000
Oklahoma City, OK 93152

Dave Cosson
NTCA
2626 Pennsylvania Avenue, NW
Washington, DC 20037

Janee Breismeister
Consumers Union
1300 Guadalupe
Suite 100
Austin, TX 78701-1643

Johnlander Jackson-Forbes
Assistant Attorney General
Public Utilities Section
180 East Broad Street
Columbus, OH 43266

Patrick S. Berdge
State of California
Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102

Michael A. McRae
Office of the People's Counsel
District of Columbia
1133 15th Street, NW, Suite 500
Washington, DC 20005

Maureen O. Helmer
General Counsel
State of New York
Department of Public Service
Three Empire State Plaza
Albany, NY 12223

Eric A. Eisen
Counsel for Indiana Utility Regulatory
Commission
Eisen Law Office
10028 Woodhill Road
Bethesda, MD 20817

David Kaufman
General Counsel
New Mexico State Corporation Commission
P.O. Drawer 1269
Santa Fe, NM 87504

Pat Wood, III
Robert W. Gee
Judy Walsh
Public Utility Commission of Texas
1701 N. Congress Avenue
P.O. Box 13326
Austin, TX 78711

Christopher G. McCann
Vice President
1-800-FLOWERS
1600 Steward Avenue
Westbury, NY 11590

International Transcription
Service *
1231 20th Street, N.W.
Washington, DC 20036


Rhonda M. Johnson

* Via hand delivery